

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Christopher Montiero

Date application filed with the Town Clerk: December 3, 2007

Nature of request: A Special Permit for a supplemental apartment under Zoning Bylaw Section 5.011

Address: 134 Summer Street (Map 5B, Parcel 6, R-N Zoning District)

Legal notice: Published on December 5 and 12, 2007 in the Daily Hampshire Gazette and sent to abutters on December 4, 2007

Board members: Thomas Simpson, Hilda Greenbaum and Jane Ashby

Submissions: The petitioner submitted a floor plan of the proposed apartment, a Town GIS map with hand-drawn parking places, and a management plan.

For the continued hearing on January 11, 2008, an updated floor plan and two possible parking plans were submitted by the petitioner. A survey of the property was also submitted.

Town staff submitted: 1) a memo from the zoning assistant dated 12/13/07 commenting on the Zoning Bylaw requirements of a supplemental apartment and the non-conformity of the lot; 2) an email from the Town Engineer dated 12/11/07 stating that there is a newly repaved sidewalk in front of the property and that parking should be on the side of the house.

Site Visit: December 18, 2007

The Board met with the applicant at the site. They observed the following:

- An older neighborhood of non-conforming lots, smaller homes close to the road, parking within the front setback, and an apartment complex across the street;
- Newer homes and three new building lots to the west on Summer Street that meet dimensional requirements;
- The “ell-shaped” portion of the house that is proposed for the supplemental apartment, currently in poor condition;
- The front porch and the location of the back deck, both of which will be accessible to the main house and the supplemental apartment;
- Part of the sidewalk in front of the house; the high snow piles obliterated most of the sidewalk and wide curbcut.

Public Hearing: December 20, 2007

The petitioner gave the following statements at the hearing:

- He would like a Special Permit for a supplemental apartment so that his mother can live with him;
- It would be easiest if his mother had her own dwelling unit attached to his house;

- The ell addition to the house where the apartment is proposed used to be a country store;
- The Town Inspection department has looked at the space, and as a result, some changes have been made to the floor plans – the bedroom will be one foot wider and the bathroom one foot less wide;
- A revised floor plan was submitted showing the changed dimensions;
- The applicant has been trying to meet with the Town Engineer about the parking, but to no avail;
- Mr. Skeels did communicate that parking on the side of the house would be best, so the applicant submitted a plan showing one parking place in front of the house, and three diagonal spaces in the easterly sideyard;
- There is a partial sidewalk in front of the house, but there is also 23 feet space with no sidewalk where cars have parked in the front in the past;
- The property is on Town water and sewer;
- There is 20 feet from the street to the front porch and the entrance to the supplemental apartment.

Mr. Simpson noted that the measurements on the submitted site plan are not consistent with one another; also, scaled drawings of the floor plan are needed. He noted that it's impossible to determine whether parking can be in the sideyard if the measurements are not accurate over the entire site plan.

The Board agreed that a surveyed plan would be needed of the property so that the front and side setbacks can be accurately measured for any planned parking area.

Ms. Ashby asked about windows in the proposed apartment. The applicant showed the window openings on the originally submitted floor plans and the key giving the dimensions of each of the windows. The Board again stated that the plans need to be more clear, not just for the record, but for the contractor and Inspection Services as well.

Ms. Greenbaum noted that many of the properties along Summer Street have been improved recently, and some upscale houses are planned a few doors away. She said that the Board might require the following:

1. A better location for the trash and recycling behind the house and that it be screened;
2. No parking in front of the house; all parking must be on the side of the house or behind it;
3. Grass and other landscaping plants should be added to the front of the house "ell" to replace the bare parking area; a front yard parked with cars is not legal and unattractive to the neighborhood;
4. The front step access is difficult; grading may be needed in front so that the steps can be used more easily.

Ms. Ashby made a motion to continue the hearing to January 11th at 5:30 p.m. Mr. Simpson seconded the motion and the vote was unanimous to continue the hearing to January 11, 2008 at 5:30 pm.

Continued Hearing: January 11, 2008

Mr. Montiero submitted two possible parking plans to the Board, one with angled parking on the side of the house and another with one car along the side of the house and two parked behind the house. The Board and petitioner discussed the driveway and parking needs, and agreed that putting all three parking places behind the house would be best. Since there is 82 feet from the back of the house to the rear property line, locating three parking places and a turnaround would work well, the petitioner stated. The petitioner stated that the driveway and parking could be of asphalt; the Board suggested that trap rock with dust would be fine.

The Board asked for a final parking plan to be submitted at a public meeting prior to construction of the driveway. They discussed with the petitioner the width of the proposed driveway (12 feet) and the size of the parking places, 9'x18'. They also said that the parking should be limited to three places, since the proposed

supplemental apartment is so small.

Mr. Simpson stated that the petitioner may wish to shorten the deck or remove the deck steps on the driveway side to keep them from intruding into the driveway. Since the deck has steps on the north and west sides as well, eliminating the steps on the east side was preferable to the petitioner to constructing a smaller deck.

Ms. Weeks, Building Commissioner, noted that there are 20 feet, 7 inches from the house to the easterly property line. A twelve-foot wide driveway approximately in the middle of the sideyard would allow for some yard and screening along the easterly side of the property.

The Board discussed the fact that much of the petitioner's front yard is in the Town right-of-way and is paved. The Board noted that the Department of Public Works is in charge of the curb-cut for the driveway, the sidewalk and the current paving. The curb cut is 23 feet wide. The petitioner said that he would investigate the possible removal of some of the paving, especially paving that is on his property. He said that he would like to reclaim the front yard, now that the parking will be in the back of the house.

Ms. Greenbaum suggested that the petitioner may wish to put loam over the pavement on his property and add some plantings on the sideyard; the buffer would shield the supplemental apartment from the student housing next door.

Ms. Greenbaum noted the improved floor plans for the supplemental apartment. The petitioner said that adjustments have been made and this is the final plan for the apartment.

Ms. Ashby asked about the size of the proposed apartment. It was noted that the apartment is approximately 400 square feet. The covered front porch is 98 square feet and the rear deck will be 220 square feet, accessible to both the main house and the apartment.

Ms. Ashby reviewed what the Board is requiring for the revised site plan that will be submitted for approval at a public meeting:

1. The steps on the east side of the deck shall be removed;
2. The driveway shall be 12 feet wide;
3. The three parking places shall be located behind the house;
4. Landscaping in the front and easterly side of the property (optional).

Ms. Greenbaum made a motion to close the evidentiary portion of the hearing. Ms. Ashby seconded the motion and the vote was unanimous to close the hearing.

Public Meeting:

Mr. Simpson asked the other members of the Board if they had any problems granting the Special Permit, given specific conditions.

No one objected to approving a Special Permit for a supplemental apartment, so the Board spent the remainder of the Public Meeting crafting conditions for the Special Permit.

Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because there are other multifamily residences in the neighborhood and an apartment complex across the

street.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because the exterior of the house is not changing, the apartment will be small and designed for a single person, and the parking will be moved from the front to the back of the property.

10.383 and 10.387 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians and the proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets because the parking will now not interfere with the sidewalk in front of the house and the driveway will have an adequate turnaround area as well.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because extensive renovation of the interior of the apartment has already been accomplished.

10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes because the property is connected to Town water/sewer and the approved Management Plan includes proper refuse/recycling disposal.

10.392 – The proposal provides adequate landscaping, including the screening of adjacent residential uses, because the petitioner has indicated that he will provide more screening on the side of the house where the driveway and parking will be located.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because, as a condition of this permit, all external lighting will be downcast

10.395 – The proposal does not create disharmony with respect to the use, scale and architecture of existing buildings in the vicinity because no external changes will be made to the exterior of the house.

10.397 – The proposal provides adequate recreational facilities, open space and amenities for the proposed use because the large back yard will remain.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst.

Public Meeting – Zoning Board Decision

Ms. Greenbaum made a motion to APPROVE the proposal for a supplemental apartment and to WAIVE the parking requirement of two parking places per dwelling unit. Ms. Ashby seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit to Christopher Montiero for a supplemental apartment under Section 5.011 of the Zoning Bylaw and to waive the parking requirement of two parking places per dwelling unit, on the premises at 134 Summer Street (Map 5B, Parcel 6, R-N Zoning District), with conditions.

THOMAS SIMPSON

HILDA GREENBAUM

JANE ASHBY

FILED THIS _____ day of _____, 2008 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2008.
NOTICE OF DECISION mailed this _____ day of _____, 2008
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2008,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit to Christopher Montiero for a supplemental apartment under Section 5.011 of the Zoning Bylaw, on the premises at 134 Summer Street (Map 5B, Parcel 6, R-N Zoning District), subject to the following conditions:

1. The supplemental apartment shall be built according to the plans approved by the Board at a public meeting on January 11, 2008 and on file in the zoning office of the Planning Department.
2. The premises shall be managed according to the Management Plan approved by the Board at a public meeting on January 11, 2008 and on file in the zoning office of the Planning Department.
3. Parking shall be limited to three parking places and three cars only on a regular basis.
4. Either the main house or the supplemental apartment shall be owner occupied.
5. No more than two persons shall live in the supplemental apartment.
6. A 12-foot wide driveway, parking and site plan shall be submitted to the Board for approval at a public meeting prior to construction of the driveway and parking area.
7. Refuse/recycling shall be screened and protected from animals.
8. All new external lighting shall be downcast and motion activated.
9. Reflective street addresses for both units shall be installed along Summer Street, visible in both directions.
10. This permit shall expire upon change of ownership of the premises.
11. This Special Permit is subject to Section 14 of the Zoning Bylaw, Phased Growth. Development authorization is available as of February, 2008.

TOM SIMPSON, Chair
Amherst Zoning Board of Appeals

DATE